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Joannou v Rancho Palos Verdes: Earthquake Movement & Lot Lines

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Earthquake Movement & Lot Lines

Joannou v City of Rancho Palos Verdes (2013) 219 CA4th 746

•In 1956, road construction in an area of the Palos Verdes Hills known as the Portuguese Bend activated a gradual and ongoing subsurface landslide. In 2005, Joannou purchased a home in the Portuguese Bend that, between the years of 1956 and 1987, had migrated along with the land approximately 300 feet south of its original lot onto property owned by the City (Lot 1). During construction, Joannou placed a fence around her property. The City noticed the fence and informed Joannou that she had no claim to the land on Lot 1. Joannou filed an action under the [Cullen Earthquake Act \(CEA\)](#) ([CCP §§751.50–751.65](#)) to quiet title in her and establish new land boundaries as a result of lot line displacements. The City moved for summary judgment, which the trial court granted. Joannou appealed.

The court of appeal affirmed, articulating two grounds for decision:

- [CEA](#) actions may be brought when “lands were affected by a ‘disaster.’” [CCP §751.50](#). However, the [CEA](#) does not define the term “disaster.” The court concluded that the conventional meaning of “disaster” as applied to earth movements does not include gradual and ongoing earth movements. After examining the statutory language and legislative history, the court held that the [CEA](#) applies only to sudden, instantaneous, or abrupt earth movements.
- Under the [CEA](#), plaintiffs are required to plead in the complaint a proposed replatting of the land boundaries “as fixed by the disaster” that includes all real property affected by the action. [CCP §751.53\(f\)](#). The legislature’s intent was to establish certainty in title, in a single conclusive action, when lot boundary lines were disturbed because of a disaster. Here, the land affected by ongoing earth movements was not “fixed” as required by the [CEA](#). The court held that in cases when the lot boundary lines have moved and will continue to move, there is no way for plaintiffs to comply with the [CEA](#)’s pleading requirements or for a single judgment to satisfy the legislature’s intent to resolve land disputes under these circumstances conclusively.
- The court acknowledged that inequitable results may flow from its decision, but concluded that the [CEA](#) did not apply because it was not intended to address land disputes caused by gradual and ongoing landslides.

THE EDITOR’S TAKE: It may well be that the [Cullen Earthquake Act](#) does not technically apply to gradual earth movements, as the court of appeal holds here, but it is too bad for property owners that there is not some kind of rule to that effect applicable to all land. In shaky California, our boundary lines are inevitably not as stable as we would like them to be, and lateral and vertical earth movements are so common as to make it more likely than not that your

wall has started encroaching onto your neighbor's property or that his floor has begun tilting downwards into your ceiling. Must adjacent property owners seriously continuously renegotiate their boundaries with their neighbors to keep from being enmeshed in trespass litigation?

The [Davis-Stirling Common Interest Development Act](#) includes a provision that the existing physical boundaries of a unit are conclusively presumed to be the legal boundaries, regardless of earth movement or any minor variances between where they actually sit and the technical descriptions in a deed or map. [CC §1371](#) (through Dec. 31, 2013); [CC §4220](#) (beginning Jan. 1, 2014). It is regrettable that this beneficent principle is limited to condominium projects and not applied across the board. Maybe somebody can draft some comparable language for use in all conventional deeds.—*Roger Bernhardt*

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